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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/079,899	02/22/2002	Takahiro Oishi	219859US2	7402

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OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.  
1940 DUKE STREET  
ALEXANDRIA, VA 22314

EXAMINER

DALENCOURT, YVES

ART UNIT PAPER NUMBER

2157

DATE MAILED: 07/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/079,899

Applicant(s)

OISHI ET AL.

Examiner

Yves Dalencourt

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-6 is/are allowed.
- 6) ☒ Claim(s) 13-19 is/are rejected.
- 7) ☒ Claim(s) 7-12 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02/22/02 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 06/02/03; 07/13/04; 11/03/04; 03/04/05
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

This office action is responsive to communication filed on 02/22/02.

#### *Claim Objections*

1. Claim 9 is objected to because of the following informalities: It is suggested to delete " sep " (line 4) and insert – step --. Appropriate correction is required.

#### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 7, 8, and 14 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Regarding claims 7, 8, and 14, the limitation of " which refers to a **link-bandwidth table** " (claims 7, 8, and 14, line 2; claim 13, line 3) is confusing. Does Applicant refer to another **link-bandwidth table** or is it the same one as previously mentioned in claim 1.

Claim 14 recites the limitation " said program" in line 5. There is insufficient antecedent basis for this limitation in the claim. A program has not previously been identified in claim 2.

Claims 10 – 12 and 15 – 19 are necessarily rejected as being dependent upon the rejection of claims 8 and 14.

***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 13 – 19 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 13 and 14 in view of **MPEP section 2106 IV.B.2. (b)** define non-statutory processes because they merely manipulate an abstract idea without a claimed limitation to a practical application. The language of the claims raise a question as to whether the claims are directed merely to an abstract idea that is not tied to a technological art, environment or machine which would result in a practical application producing a concrete, useful, and tangible result to form the basis of statutory subject matter under 35 U.S.C. 101. A program not claimed **as being executed by a computer** is descriptive material per se and is not statutory process. Applicant is advised to amend the claims by specifying the claims being directed to a practical application and producing a tangible result **being executed by a computer**. As such, claims 13 - 14 would be considered statutory under 35 U.S.C. 101.

Claims 15 - 19 are necessarily rejected as being dependent upon the rejection of claims 13 and 14.

***Allowable Subject Matter***

Claims 7 - 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 1 – 6 are allowed.

The following is a statement of reasons for the indication of allowable subject matter: As specifically claimed, the art of record fail to teach among other limitations, in combination, a bandwidth management apparatus for use in a network in which a plurality of nodes, including two or more edge nodes connected to other networks or users, are connected by links, said bandwidth management apparatus for managing the reservation of a bandwidth by each of said edge node, wherein said admissible bandwidth calculating device includes: a residual bandwidth calculating part which decides whether the reservation of said requested bandwidth is unacceptable or acceptable, depending on whether the residual bandwidth of at least one of all links from an arbitrary one of said edge node to all of said destination edge nodes is less or more than a bandwidth necessary for reservation based on said requested bandwidth; and a bandwidth reservation part which, if the reservation of said requested bandwidth is acceptable, updates the residual bandwidth in said link-bandwidth table corresponding to each link of the shortest path to each destination edge node by subtracting said bandwidth necessary for reservation from said residual bandwidth.

The closest prior art (US 2002/0087713) discloses a bandwidth allocation in Ethernet Networks, wherein bandwidth request packets from the bandwidth allocation

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interfaces 14 requesting bandwidth are received at an I/O interface 40 and passed to a requested processor 42. The request processor 42 is responsible for coordinating bandwidth reservation request processing. The request processor 42 extracts the requested bandwidth capacity from the bandwidth request packet and consults a bandwidth available on all links in the path to be taken by the traffic.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Ian M. Cunningham (US 2002/0087713) discloses a bandwidth allocation in Ethernet Networks.

Natarajan et al (US Patent Number 6,072,774) discloses a communication network and method for managing internodal link topology.

Huang et al (US Patent Number 6,438,139) discloses a method and apparatus for using a receiver model to multiplex variable-rate bit streams having timing constraints.


### **Contact Information**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yves Dalencourt whose telephone number is (571) 272-3998. The examiner can normally be reached on M-TH 7:30AM - 6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Yves Dalencourt



June 23, 2005